



Iowa Department of Human Services

# **Administrative Rules Overview**

5/21/2014



## Purpose

Our purpose is to provide an overview of the administrative rules process used by DHS and the MHDS Commission.

The administrative rules process was intentionally designed to accomplish the following:

- Be thoughtful and forthright
- Ensure accountability
- Ensure the impact of proposed rules is thoroughly understood

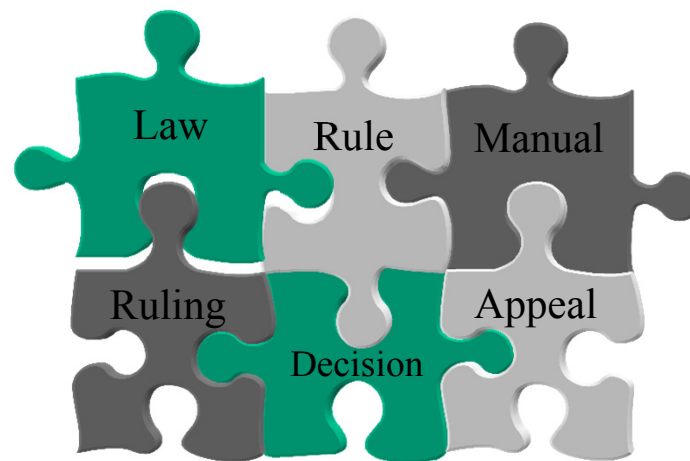


## **Administrative Procedures Act (APA)**

Iowa Code Chapter 17A :

“Iowa Administrative Procedure Act”

Sets minimum procedures for a state agency to follow when it takes action that affects the rights and duties of the public.





## Purpose of APA

The purpose of the APA is to increase:

- Legislative oversight of agency actions
- Public accountability for agencies
- Public access to government information
- Public participation in government decision-making



## **What is a rule?**

A rule is a statement of general applicability that:

- Implements Federal or State law or policy, or
- Interprets Federal or State law or policy, or
- Prescribes State law or policy, or
- Describes the agency's:
  - Organization
  - Procedure
  - Practice requirements



## When is a rule not required?

Rules are not required for statements concerning:

- Internal management of the agency
- Residents of a state facility
- Prices of goods or services furnished by DHS  
(as opposed to fees)
- Criteria for audits, inspections, or negotiations



## **What gives us the right to make rules?**

- Rule making is a delegation of legislative authority
- Administrative rules have the force of law
- An administrative agency has no independent law-making power
- Rule making authority must be expressly delegated by statute
- Agencies can act only within the authority of the statute



## When is a rule valid?

A rule is valid when:

- It is based on a law that:
  - Is constitutional
  - Specifically authorizes the agency to make rules
- It has completed the required rule-making process
- It is within the authority of the agency and is reasonable





## **What rules are required?**

Rules must describe:

- Agency structure, programs and mission
- Methods for public to get information or make requests
- Nature and requirements of all formal and informal procedures available to the public
- Description of all forms and instructions used by the public
- Standards, principles and procedural safeguards



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## Where are the rules?

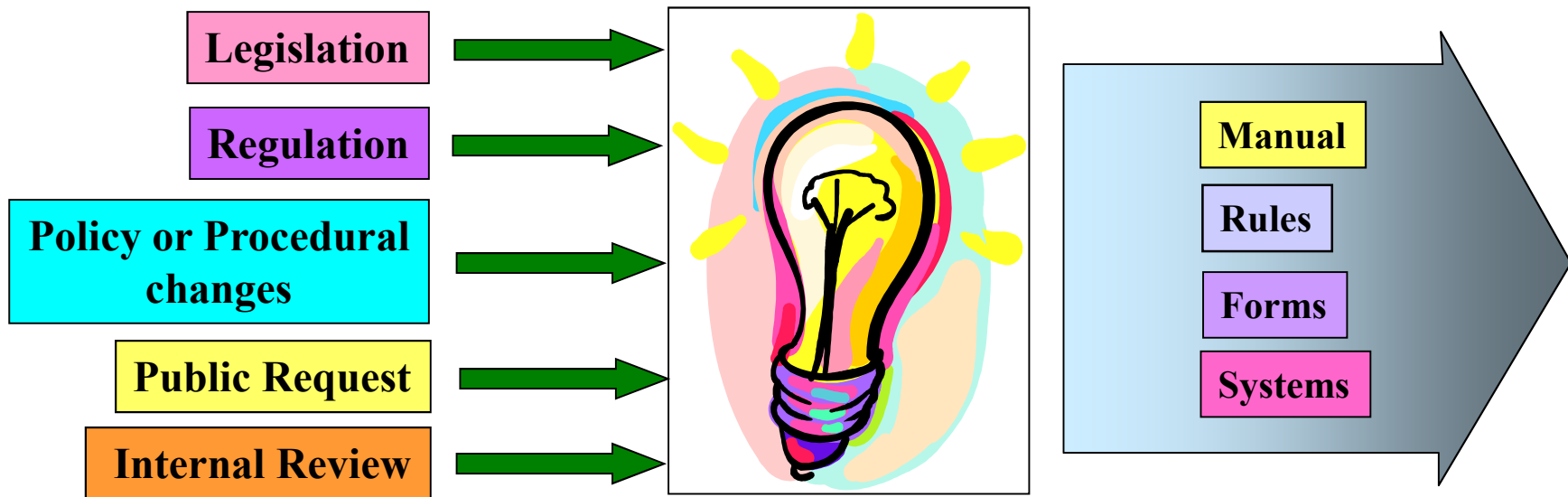
Rules are published by the Legislative Services Agency (LSA) in:

- **Iowa Administrative Code:** The published collection of the administrative rules of all state agencies
- **Iowa Administrative Bulletin:** A biweekly pamphlet announcing rules proposed or adopted by state agencies
- Copies may be found on the DHS Policy Analysis web site: [www.dhs.iowa.gov/policyanalysis](http://www.dhs.iowa.gov/policyanalysis)



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**What causes a rule to be needed or clarified?**



**“In the beginning, there was an idea!”**



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## **What does DHS have to do to make a rule?**

- Identify and develop proposed rule changes
- Publish a notice of proposed changes
- Gather comments from the public
- Submit to administrative and legislative oversight
- Adopt final rules
- Publish final rules



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## Who has rule-making power?

- Council on Human Services
- Mental Health and Disabilities Services Commission
- *hawk-i* Board

The primary function of these bodies is to decide whether to adopt a rule.



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## **Who has oversight of rules?**

- Council, Board, or Commission
- Administrative rules coordinator
- Attorney General
- Administrative Rules Review Committee (ARRC)
- General Assembly



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## **What does staff do in all this?**

- Draft changes
- Prepare rule packets consisting of:
  - proposed rule,
  - information paper,
  - fiscal review
- Get administrative & fiscal approval
- Submit to the Publications Unit
- Review products
- Respond to comments



## **How long does it take? Regular Rule Making Process**

### For a regular rule:

- 19 days for initial publication (initial Notice of Intended Action)
- 35 days for comment
- 19 days for final publication (Rule adopted)
- 35 days for implementation
- Add in approval by Council, Board, or Commission

(6 months Total Time)





## **Emergency Rule Making Criteria**

- May waive comment period if:
  - Unnecessary
  - Impracticable
  - Contrary to public interest
- May waive implementation period if:
  - Legislation permits it
  - Confers a benefit or removes restriction
  - Imminent peril to public health or safety



## **How long does it take? Emergency Rule Making Process**

For an emergency rule:

- Adopted with out Notice of Intended Action but implemented regularly (4 months)
- Adopted emergency after Notice of Intended Action (4 months)
- Adopted without Notice of Intended Action and implemented immediately  
(2 months)



## **What can the Legislative Administrative Rules Review Committee do?**

- Direct the agency to do more consensus building on proposed rules
- Delay the effective date of the rule
  - By 70 days
  - Until the end of the next legislative session
- Refer the rule to the General Assembly



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## Need More Information?

- DHS web site for administrative rules:  
<http://dhs.iowa.gov/administrative-rules>
- Iowa General Assembly web site:  
<http://www.legis.state.ia.us/IowaLaw.html>
- DHS rules share:  
Hoover3s1/Policy.771/Rules